

San Francisco Bay Conservation and Development Commission

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State of California | Gavin Newsom – Governor | info@bcdc.ca.gov | www.bcdc.ca.gov

Stipulated Commission Cease and Desist and Civil Penalty Order:

CCD2023.001.00

Effective Date:

[Pending Commission action]

Respondents:

Barto Price and Donna Price

To Barto Price and Donna Price:

I. Stipulated Commission Cease and Desist Order

Pursuant to Cal. Gov. Code § 66638, Barto Price and Donna Price (“Respondents”) are hereby ordered to:

- A. Cease and desist from violating the McAteer-Petris Act (MPA) and applicable policies of the San Francisco Bay Plan, and from the Suisun Marsh Preservation Act and applicable policies of the Suisun Marsh Protection Plan and Local Protection Program.
- B. Immediately cease and desist from hosting unpermitted public shooting events at Family Gun Club.
- C. By June 30, 2023, remove all structures associated with Family Club Clays’ shooting course from Family Gun Club property.
- D. By June 30, 2023, submit a wetland restoration plan to BCDC for its review and approval for the seasonal wetland identified in CCD2000.004.00 and BCDC Permit M1999.022.00md at Family Gun Club. Exhibit A. The plan must be consistent with the requirements of CCD2000.004.00 and BCDC Permit 1999.022.00md, and San Francisco Bay Plan Managed Wetland Policy 3 the policies of the Suisun Marsh Protection Plan.
- E. By June 30, 2023, submit a compensatory mitigation program to BCDC for its review and approval for the perimeter ditch fill that converted an acre of managed wetland into exterior levees at Family Gun Club. The mitigation program must be consistent with San Francisco Bay Plan Mitigation Policy 8 and the Suisun Marsh Protection Plan.
- F. By December 31, 2023, remove the five unauthorized structures identified in Exhibit B, unless after-the-fact authorization is obtained from BCDC.
- G. By December 31, 2023, complete all restoration actions described in the BCDC-approved wetland restoration plan.
- H. By December 31, 2023, implement all compensatory mitigation actions described in the BCDC approved mitigation program.



- I. Fully comply with the Requirements of Sections II, IV, and V of this Cease and Desist and Civil Penalty Order (“Order”).

II. Stipulated Civil Penalty Order

Pursuant to Cal. Gov. Code § 66641.6, Respondents are hereby ordered to:

- A. Pay administrative civil liability of two-hundred-fifteen thousand six-hundred thirty dollars (\$215,630) to BCDC within 30 days of issuance of this Order. The administrative civil liability consists of:
 1. Thirty thousand dollars (\$30,000) for destroying a seasonal wetland the Commission ordered Respondents to restore and maintain at Family Gun Club pursuant to CCD2000.004 and M1999.022md.
 2. Thirty thousand dollars (\$30,000) for unauthorized fill that converted over an acre of managed wetland into exterior levees at Family Gun Club.
 3. Thirteen thousand six-hundred thirty dollars (\$13,630) for unauthorized construction of the Family Club Clays public shooting course.
 4. Twenty-two thousand dollars for eleven unauthorized public shooting events (\$2,000 each) from April 2021 to present.
 5. One-hundred-twenty thousand dollars for four unauthorized structures (\$30,000 each) at the Family Gun Club.
- B. If administrative civil liability is not paid within 30 days of issuance of this Order the Executive Director is authorized to refer the matter to the Attorney General pursuant to Cal. Gov. Code § 66641.7(b), Cal. Gov. Code § 66641.5, and/or Cal. Gov. Code § 66641.

III. Findings

Factual Findings.

This Stipulated Commission Cease and Desist and Civil Penalty Order is based on the findings set forth below. The enforcement record in support of these findings includes all documents cited herein and all documents identified at Cal. Code Regs. tit. 14, § 11370.

- A. The Commission adopts the factual findings contained in the Enforcement Committee’s Recommended Enforcement Decision.
- B. The Family Gun Club is an approximately 200-acre private duck club on managed wetlands in the Suisun Marsh.
- C. Since 1999, the Family Gun Club has been party to two enforcement actions—ER1999.012.00 and ER2009.004.00—and has received two BCDC Marsh Development Permits: M1999.022.00md and M2019.024.00.
- D. The Club’s prior owners were respondents in ER1999.012.00, which concerned the unauthorized placement of approximately 3,500 cubic yards of fill over a 36,000 square-



foot area, including 4,500 square-feet of seasonal wetlands. It was resolved by CCD2000.004.00, which ordered respondents to restore the seasonal wetlands, and by BCDC Permit M1999.022.00md, which incorporated these requirements and authorized the Family Gun Club to construct a new 175-foot-long levee adjacent to the restored seasonal wetlands.

- E. Respondents Donna and Barto Price purchased the Family Gun Club from prior owners in 2008 and have been the owners and operators of the Family Gun Club since.
- F. In 2019, Respondents applied for a BCDC Marsh Development Permit to construct a 145-foot-long bulkhead wall on the Goodyear Slough side of Family Gun Club's exterior levee. BCDC Permit M2019.024.00md authorized this work, resolving some, but not all, of the violations alleged in ER2009.004.00.
- G. When BCDC received additional reports of violations at Family Gun Club in 2020, ER2009.004.00 was closed and its remaining issues merged into the instant matter, ER2020.021.00. Staff identified 10 violations of the McAteer-Petris Act and the Suisun Marsh Preservation Act and attempted to resolve the violations administratively.
- H. In December 2021, staff elevated this matter to formal enforcement due to the history of violations on the site, the significant allegations raised by the public, and Respondents' untimely responses to each of BCDC's attempts to resolve this matter through the administrative enforcement process.
- I. On April 21, 2022, Respondents requested an extension of time to file their Statement of Defense. Staff found good cause for this request and extended the Statement of Defense submission deadline to June 17, 2022. The Enforcement Committee hearing date was extended to July 27, 2022. Pursuant to Cal. Gov. Code §66641.6(b), Respondents agreed to waive the right to a hearing within sixty (60) days of service of the Violation Report and Complaint.
- J. Respondents' timely-filed Statement of Defense stated that four of the ten violations BCDC staff identified in its Violation Report and Complaint were, in fact, different elements of two distinct projects, and argued that BCDC should, therefore, reduce the number of violations to eight. BCDC Staff agreed with this assessment.
- K. The Enforcement Committee adopted its first Recommended Enforcement Decision in this matter on July 27, 2022, which included a proposed stipulated order, CCD2022.004.00. Before the Commission could review the Enforcement Committee's recommendation BCDC staff received reports from the public indicating that Respondents did not intend to comply with the letter or spirit of CCD2022.004.00's requirements. The Enforcement Committee's Recommended Enforcement Decision in

this matter was then pulled from the Commission's agenda so staff could pursue further factual development, and CCD2022.004.00 was never issued.

- L. The Enforcement Committee considered a revised Recommended Enforcement Decision and a revised Cease and Desist Order in this matter on December 8, 2022, which addressed the additional reports BCDC staff received between July 27, 2022 and December 1, 2022. That Recommended Enforcement Decision identified 19 violations at Family Gun Club. The revised Cease and Desist Order proposed a total civil penalty of \$308,000 for these 19 violations.
- M. At the December 8, 2022 hearing the Enforcement Committee provided BCDC Staff with direction to pursue a stipulated order that eliminated one violation (the bridge violation), and reconsidered penalties associated with the Family Club Clays construction and operation.
- N. This Stipulated Commission Cease and Desist Order thus addresses 18 violations:
 - a. Violation 1: The seasonal wetland restoration area required by CCD2000.004.00 and BCDC Permit M1999.22.00md was intact in 2007, immediately before Respondents purchased Family Gun Club. Respondents constructed a pond, a sidewalk and other landscaping on the restoration area in 2008. This constitutes one violation of the MPA and the SMPA.
 - b. Violation 2: Family Gun Club's perimeter drainage ditch—approximately 7,500 feet long, six feet wide, and two-and-a-half feet deep—was intact in 2007, immediately before Respondents purchased Family Gun Club. Respondents filled the entire perimeter ditch, transforming over an acre of managed wetlands into exterior levees. This constitutes one violation of the MPA and the SMPA.
 - c. Violations 3-14: In 2019, Respondents constructed Family Club Clays, a commercial clay shooting course, at Family Gun Club, and since April 2021 Respondents held at least eleven events open to the public at the course. Respondents did not first obtain the requisite BCDC permit to construct the course, nor did Respondents first obtain the requisite BCDC permit to host any public events. This constitutes twelve violations of the MPA and the SMPA.
 - d. Violations 15-18: Between 2008 and 2016, Respondents raised a large barn, expanded a structure to create the Family Club Bar, converted a boathouse into a larger meeting hall, and developed an irrigation well and pumphouse. Respondents did not first obtain the requisite BCDC permit for any of these five structures. This constitutes four violations of the MPA and the SMPA. A separate violation for a fifth unauthorized structure—a foot bridge—is not being

pursued because the structure has been removed and disposed of outside of BCDC's jurisdiction.

Legal Findings.

- A. The Commission adopts the legal findings contained in the Enforcement Committee's January 25, 2023, Recommended Enforcement Decision in this matter.
- B. The Commission finds that Respondents violated, and are violating, the McAteer-Petris Act (MPA) and the Suisun Marsh Preservation Act (SMPA) by destroying a seasonal wetland that it was required to maintain pursuant to Commission Cease and Desist Order CCD2000.04.00 and BCDC Permit M1999.22.00md. The Commission's conditions run with the land. Respondents' violations began in 2008 and are ongoing.
- C. The Commission finds that Respondents violated, and are violating, the MPA and the SMPA by filling a perimeter ditch and thereby transforming over an acre of managed wetland into exterior levees. This development was not exempt from BCDC permitting as a project to grade pond bottoms for levee maintenance materials, because it resulted in expanding the size of the exterior levee by over an acre. Respondents' violations began in 2009 and are ongoing.
- D. The Commission finds that Respondents violated, and are violating, the MPA and the SMPA by constructing four different structures at different times without first obtaining the requisite BCDC permits, constituting four distinct violations of law. Respondents' violations began between 2008 and 2016 and are ongoing.
- E. The Commission finds that Respondents violated, and are violating, the MPA and the SMPA by constructing the Family Club Clays shooting course without first obtaining the requisite BCDC permit. Respondents' violations began in 2019 and are ongoing.
- F. The Commission also finds that Family Club Clays hosted 11 3-day public events during the investigation into this matter. Neither Family Club Clays or Family Gun Club obtained a permit for any of these events.
- G. The Commission also finds that, based on the factors provided by MPA Section 66641.9, a \$30,000 penalty for six violations (wetland destruction, levee expansion, and four unauthorized structures) is appropriate; a \$13,630 penalty for the development of Family Club Clays is appropriate; and a Twenty-two thousand dollar fine for the eleven unauthorized Family Club Clays events is appropriate. The total administrative civil liability is therefore \$215,630.
- H. Specifically, the Commission finds that the gravity of harm caused by six violations are major, while twelve violations were more moderate or minor. Destroying a seasonal wetland that Family Gun Club was ordered to restore in 2000 directly contravenes a prior Commission order and violates the terms of a subsequent permit. The perimeter ditch fill transformed more than an acre of managed wetlands into exterior levees. Both of these violations impacted highly important habitats and are long-lasting and/or

permanent. The nature and extent of harm caused by the four unauthorized structures is moderate but are permanent. The pumphouse structure is relatively small, the meeting hall moderately sized, while the barn and bar are larger structures. The structures significantly increased the scale of development on the managed wetland. The nature and extent of harm caused by the Family Club Clays course is minor; the structures associated with it are mobile, and while collectively significant some structures individually may fall below the cost threshold defining fill in the MPA. The nature and extent of harm caused by the eleven unauthorized events was significant, as each event resulted in significantly higher levels of shooting use than typically authorized in the Marsh, but were of short duration.

- I. The Commission also finds that while six violations are susceptible to removal or resolution, the temporal loss of the seasonal wetland cannot be remediated, and the extensive expansion of the levee permanently reduced the size of the managed wetland by an acre. None of the eleven special events can be resolved through removal or resolution through permitting, as the events have already occurred.
- J. The Commission also finds that the cost to the state in pursuing this case was significant, due to the history of violations at the site, noncompliance with prior Commission findings, and Respondents' unresponsiveness to attempts to resolve the matter administratively, which resulted in the matter being elevated to formal enforcement, and ultimately demonstrating an inability to adhere to representation made in pursuit of a stipulated order.
- K. The Commission finds that Respondents have culpability for these violations. The wetland restoration requirements were incorporated into a BCDC permit that runs with the land; and finds that its description of the perimeter ditch filling in submissions to the Suisun Resource Conservation District were inadequate. Respondents knew or should have known of these permitting requirements. Respondents have somewhat less culpability for the failure of its contractor to obtain necessary permits; however, it is ultimately their burden to ensure that regulatory approvals were obtained during construction. Respondents are also culpable for constructing the Family Club Clays course without any permits, and for hosting special events before, during, and after the proposed stipulated order was recommended for adoption by staff and the Enforcement Committee.
- L. The Commission also finds that there is no evidence in the record indicating that Respondents lack the ability to pay the administrative civil liability.
- M. Based on these penalty factors, the Commission finds that a \$2,000 penalty per day is appropriate for destroying the seasonal wetland, resulting in \$30,000 in administrative civil liability for this violation, the maximum administrative civil liability allowed under the MPA. The Commission also finds that a \$2,000 penalty per day is appropriate for filling the perimeter ditch, resulting in \$30,000 in administrative civil liability for this violation, the maximum administrative civil liability allowed under the MPA. The

Commission also finds that a \$250 penalty per day is appropriate for each unauthorized structure, resulting in \$30,000 in administrative civil liability for each of these four violations, the maximum administrative civil liability allowed under the MPA. The Commission also finds that a \$10 penalty per day is appropriate for the unauthorized construction of the Family Club Clays course, resulting in \$13,630 in administrative civil liability for this violation through September 2022, when the course was closed permanently. The Commission also finds that a \$2,000 penalty per event is appropriate for each of the 11 3-day events Respondents hosted at Family Club Clays since April 2021, resulting in \$22,000 in administrative civil liability for these violations.

- N. The Commission finds that Respondents thus have seven MPA and SMPA violations for a total administrative civil liability of \$215,630.

IV. Terms

- A. The Executive Director may, in his discretion, grant an extension of time for demonstrated good cause to comply with any provision of this Order. The Executive Director shall inform the Enforcement Committee Chair and the Commissioners of any extensions that are granted under this provision.
- B. Barto and Donna Price must strictly conform to the express terms of this Order. Under Cal. Gov. Code § 66641, any person who intentionally or negligently violates any part of any cease-and-desist order issued by the Commission may be liable civilly in the sum of up to \$6,000 for each day in which such violations persist. In addition, upon the failure of any person to comply with any cease-and-desist order issued by the Commission and upon the request of the Commission, the Attorney General of the State of California may petition the superior court for the issuance of a preliminary or permanent injunction, or both, restraining the person or persons from continuing any activity in violation of the cease-and-desist order.
- C. This Order does not affect any duties, right, or obligations established under private agreements or by the laws and regulations of other public bodies.
- D. This Order does not constitute a recognition of property rights.
- E. This Order is effective upon issuance thereof.

V. Judicial Review

- A. Under Cal. Gov. Code §§ 66639 & 66641.7(a), within thirty days after service of a copy of a cease-and-desist order and civil penalty order issued by the Commission, an aggrieved party may file with the superior court a petition of writ of mandate for review of the order pursuant to Section 1094.5 of the Code of Civil Procedure.

Executed at San Francisco, California, on behalf of the San Francisco Bay Conservation and Development Commission on the date written:

Lawrence J. Goldzband, BCDC Executive Director

Date

Executed at _____, California, on behalf of Respondents Barto Price and Donna Price on the date written:

Barto Price

Date

Donna Price

Date

cc: Steve Chappell, Suisun Resource Conservation District, schappell@suisunrcd.org
Vicki Caldwell, State Lands Commission, Vicki.Caldwell@slc.ca.gov
Brian Thompson, San Francisco Regional Water Quality Control Board, Region 2,
brian.thompson@waterboards.ca.gov
William M. Connor, Regulatory Program Manager, United States Army Corps of
Engineers, William.M.Connor@usace.army.mil

LIG/bp/mm



SAN FRANCISCO BAY CONSERVATION AND DEVELOPMENT COMMISSION

50 California Street, Suite 2600
SAN FRANCISCO, CALIFORNIA 94111
PHONE: (415) 352-3600
<http://ceres.ca.gov/bcdc/>

Stipulated Order Exhibit A

*Issued CCD 4-00
The Family Gun Club*

February 20, 2001

The Family Gun Club
1681 Visalia Avenue
Berkeley, California 94707

ATTENTION: Milton von Damm, Robert Bricca, Leo Reihsen, Gordon Richards,
Charles F. Rund, and Dan Stemmler

AND

McGuire and Hester
9009 Railroad Avenue
Oakland, California 94603

ATTENTION: Michael Hester, President

AND

Baker Trucking
Taylor and Goins
1330 Broadway, Suite 1100
Oakland, California 94612-2517

ATTENTION: Vernon Charles Goins, II

SUBJECT: Cease and Desist and Civil Penalty Order No. CCD 4-00

Ladies and Gentlemen:

On February 15, 2001, the San Francisco Bay Conservation and Development Commission unanimously approved the resolution pursuant to which the enclosed Cease and Desist and Civil Penalty Order No. CCD 4-00 is issued.

Section II of the order provides two avenues of resolution, only one of which you must comply with. Section II-A states that you must remove all of the fill and pay a civil penalty. Section II-B states that you must remove part of the fill, obtain permission to retain part of the fill, restore the damaged seasonal wetlands, and pay a civil penalty. Prior to its issuance, you began complying with Section II-B of the order, which I will elaborate below.

Section II-B-1 of the order requires you, by Wednesday, June 20, 2001, to remove and legally dispose of, to a location approved in advance and in writing by or on behalf of the Commission, all of the contaminated fill. By this date, you must also submit written verification of having done so satisfactory to the Commission's Executive Director.

Stipulated Oder Exhibit A

Section II-B-2 of the order requires you, by Wednesday, June 20, 2001, to remove and legally dispose of, to a location approved by or on behalf of the Commission, all of the unauthorized fill placed on approximately 4,500 square feet of seasonal wetlands. By this date, you must also submit written verification of having done so satisfactory to the Commission's Executive Director. Section II-B-2-a of the order requires you, by April 30, 2001, to commence, and, by September 30, 2001, to complete, restoration of the damaged seasonal wetlands. This section also establishes the criteria by which we will determine whether the seasonal wetlands restoration has been successful, identifies the progressively increasing percentage of the site that must be covered with native vegetation throughout a five year period, and names non-native species which must be controlled throughout a five year period.

Section II-B-2-b requires that, prior to the commencement of any of the work and by April 16, 2001, you must submit a written program and plans, to be approved by or on behalf of the Commission, for the restoration of the seasonal wetlands destroyed by the fill placement. These plans must depict all fill removal, grading, soil preparation, and any planting. Section II-B-2-b-1 states that these plans shall contain: (1) two topographic maps of the site showing the existing and proposed elevations, at one foot contour intervals, relative to NGVD, of the seasonal wetland restoration area; (2) cross sections showing the proposed elevation of the wetland to be restored, adjacent wetlands, any channels, and any high spots; (3) figures for the ratios of typical horizontal to vertical slopes for existing and proposed marsh surface, levees, and channels; and (4) proposed plant species along the cross-sections according to their expected zone of growth. Section II-B-2-b-2 states that the program shall include a schedule indicating when fill removal, grading, plant colonization and planting will occur. In order to obtain approval of your plans and to provide all of the required information, you should retain a qualified professional to prepare your plans.

Section II-B-2-b-3 states that you shall submit written monitoring reports on November 15 of the first, third and fifth years following project completion. Hence, your first report will be due on November 15, 2002. It also identifies the information that must be included in these reports.

Section II-B-2-c provides that we may visit the site during the project and that, if it has not met all of the success criteria, you shall comply with any staff recommendations for further action.

Section II-B-3 states that, by April 1, 2001, you shall submit a fileable BCDC permit application to retain a portion of the fill to construct a levee and to fill in the tire pit. It also states that any work authorized by the Commission must be commenced by April 30, and completed by September 30, 2001. Michelle Levenson informed me that this application has been filed as complete and your project will soon be listed with our Commission. Thereafter, she will issue your permit, which will have special conditions with which you must comply before commencing the work that will be authorized by the permit.

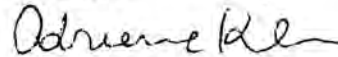
Section II-B-4 states that, by August 4, 2001, you must remove and legally dispose of, all of the unauthorized fill for which you have not obtained the Commission's approval to retain. This provision will apply if there is more fill onsite than authorized for use and actually used by the proposed levee construction project.

The Family Gun Club,
McGuire and Hester, and
Baker Trucking
February 20, 2001
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Stipulated Oder Exhibit A

Section II-C states that, by June 20, 2001, you shall pay a \$5,000 civil penalty. We would appreciate receiving the civil penalty at your earliest convenience.

Sincerely,

A handwritten signature in cursive script, appearing to read "Adrienne Klein".

ADRIENNE KLEIN
Chief of Enforcement

SAN FRANCISCO BAY CONSERVATION AND DEVELOPMENT COMMISSION

50 CALIFORNIA STREET, SUITE 2600
SAN FRANCISCO, CALIFORNIA 94111
PHONE: (415) 352-3600

Stipulated Order Exhibit A**ISSUED BCDC**

**Commission Settlement
and Stipulated Cease and Desist and
Civil Penalty Order No. CCD 4-00**

February 20, 2001

The Family Gun Club
1681 Visalia Avenue
Berkeley, California 94707

ATTENTION: Milton von Damm, Robert Bricca, Leo Reihsen, Gordon Richards,
Charles F. Rund, and Dan Stemmler

AND

McGuire and Hester
9009 Railroad Avenue
Oakland, California 94603

ATTENTION: Michael Hester, President

AND

Baker Trucking
c/o Taylor and Goins
1330 Broadway, Suite 1701
Oakland, California 94612-2517

ATTENTION: Vernon Charles Goins, II

SUBJECT: Commission Settlement and Stipulated
Cease and Desist and Civil Penalty Order No. CCD 4-00;
The Family Gun Club, McGuire and Hester and Baker Trucking
Effective Date: February 15, 2000

Ladies and Gentlemen:

I. Settlement and Issuance of Stipulated Cease and Desist and Civil Penalty Order

In March, 1999, the San Francisco Bay Conservation and Development Commission ("the Commission") commenced an enforcement action against the Family Gun Club ("the FGC"), McGuire and Hester ("M&H"), and Baker Trucking concerning the placement of approximately 280 truckloads of fill forming a stockpile of between 2,500 and 3,500 cubic yards of material, covering approximately 36,000 square feet, and causing damage to approximately 4,500 square feet of seasonal wetlands, located on the FGC property in the primary management area of the Suisun Marsh. This work required a Commission permit and occurred without a Commission permit.

The Commission, the FGC, M&H and Baker Trucking now wish to resolve all matters that give rise to this proceeding and enter into this settlement and stipulate to the issuance of this cease and desist and civil penalty order solely to avoid delay, expense and uncertainty of result that would be involved if the parties were to pursue the formal contested Commission enforcement process.

Therefore, pursuant to California Government Code Sections 66638 et. seq. and California Public Resources Code Section 29601, the FGC, M&H and Baker Trucking have stipulated to this order and all of its terms and, based on these stipulations, the Commission orders the FGC, M&H, Baker Trucking, all of their agents, and any other persons acting in concert with them to comply fully with Section II of this order.

II. Terms and Conditions of Cease and Desist and Civil Penalty Order

The FGC, M&H and Baker Trucking must comply either with all of the requirements of Section II-A OR with all of the requirements of Sections II-B AND II-C.

A. Unauthorized Fill Removal and Civil Penalty

1. **Unauthorized Fill Removal.** Within 135 days of the issuance of this order, the FGC, M&H and Baker Trucking shall remove and legally dispose of, to a location approved by or on behalf of the Commission, all of the unauthorized fill placed by the parties at the FGC, as generally shown on Exhibit 1, shall supply written verification of having done so satisfactory to the Commission's Executive Director, and shall restore the entire affected area to its previous grade and condition; and
2. **Civil Penalty.** Within 135 days of the issuance of this order, the FGC, M&H and Baker Trucking shall pay \$5,000 in the form of a cashier's check made out to the San Francisco Bay Conservation and Development Commission.

B. Contaminated Fill Removal, Seasonal Wetland Restoration, and Permit Application.

1. **Contaminated Fill Removal.** Within 135 days of the issuance of this order, the FGC, M&H and Baker Trucking shall remove and legally dispose of, to a location approved in advance and in writing by or on behalf of the Commission, all of the unauthorized fill placed by the parties at the FGC and already determined by the RWQCB to be too contaminated to remain onsite, as generally shown on Exhibit 2 as "contaminated fill to be removed offsite," and supply written verification of having done so satisfactory to the Commission's Executive Director.
2. **Fill Removal from and Restoration of Seasonal Wetlands.** Within 135 days of the issuance of this order, the FGC, M&H and Baker Trucking shall remove and legally dispose of, to a location approved by or on behalf of the Commission, all of the unauthorized fill placed on approximately 4,500 square feet of seasonal wetlands by the parties at the FGC, as generally shown on Exhibit 1 as "damaged seasonal wetland," and supply written verification of having done so satisfactory to the Commission's Executive Director. The FGC, M&H and Baker Trucking shall also restore the seasonal wetlands destroyed by the fill placement. The FGC, M&H and Baker Trucking shall implement the seasonal wetland restoration in the time and manner outlined below:

Stipulated Oder Exhibit A

- (a) **Restoration Goals and Timing.** The seasonal wetland restoration shall be successful if, after five years, the site is 80% covered with native wetland vegetation, covered with water at least two months each year, and attracts shorebirds and waterfowl. After the first year, 25% of the site should be covered with native wetland vegetation. After the third year, 50% of the site should be covered with native wetland vegetation. After the fifth year, 80% of the site should be covered with native wetland vegetation. Undesirable exotic plant species such as pepperweed (*Lepidium latifolium*), *Arunda Donax*, Phragmites, broom, or star thistle shall be reasonably controlled during the five-year period. The seasonal wetland restoration shall commence no later than April 30, 2001, and shall be completed no later than September 30, 2001. Within 10 days of project completion, the FGC, M&H and Baker Trucking shall inform the Commission staff in writing of having completed the seasonal wetland restoration project.
- (b) **Restoration Plans.** Prior to the commencement of any of the fill removal, grading, and any other work that may be undertaken to restore the seasonal wetlands as required by this order, but no later than 60 days from the date of issuance of this order, the FGC, M&H and Baker Trucking shall submit a program and plans, to be approved by or on behalf of the Commission, for the restoration of the seasonal wetlands destroyed by the fill placement. The program and plans shall generally depict the work shown on the conceptual plans attached hereto as Exhibit 1, shall depict all fill removal, grading, soil preparation, and any planting, and shall contain the following:
- (1) **Site Conditions and Modifications.** Two topographic maps of the site at one-foot contour intervals showing the existing elevations and the proposed modifications and proposed final elevations. All elevations shall be relative to National Geodetic Vertical Datum (NGVD) and shall be so indicated. The maps shall include typical cross-sections showing the proposed elevation of the wetlands to be restored, adjacent wetlands, any channels, and any high spots. The maps shall show figures for the ratios of typical horizontal to vertical slopes for existing and proposed marsh surface, levees, and channels. The maps shall show proposed plant species along the cross-sections according to their expected zone of growth;
 - (2) **Schedule.** The program shall include a schedule indicating when fill removal and grading will occur, the time when plant colonization is expected to occur, and the time when any planting will occur, if necessary; and
 - (3) **Monitoring.** Starting on November 15 of the first, third and fifth years following project completion, or until those portions of the restoration site are approximately 80% vegetated with appropriate native vegetation, whichever occurs first, the parties shall submit a written report to the Commission on the effects of the project in restoring wetland habitat at the restoration site. To assure that the goal of 80% plant coverage is met by the end of the five year monitoring period, the report shall measure the percentage of the site revegetated, plant survival, approximate percentage representation of different plant species, and a qualitative assessment of plant growth rates for the restoration area, including

Stipulated Oder Exhibit A

adjacent transitional and upland habitats. The parties shall assess plant coverage against the above-required benchmarks. If the restored seasonal wetlands fail to meet the project goals, the monitoring report shall discuss recommendations for accelerating the restoration of the seasonal wetlands. Such recommendations may include altering water management, planting, and adding soil amendments.

- (c) **Site Visit and Project Modifications.** At any time during the seasonal wetland restoration project and within one year from project completion, the FGC shall allow the Commission's staff to conduct a site visit of the restored seasonal wetlands and, if the staff determines that any portion of the project has not met all of the success criteria, the parties shall comply with the Commission staff recommendations by conducting further grading, planting, or other appropriate action to improve the project's success until the Commission staff determines that the seasonal wetland restoration project has been completely successful.
- 3. **After-the-Fact Permit Application.** Within 45 days of the approval of this order, the FGC shall submit a fileable BCDC marsh development permit application to retain all of the clean fill outside the seasonal wetlands area and, within 270 days of Commission action on this order, if the Commission's authorization is obtained, perform the following:
 - (a) Retain approximately 1,048 cubic yards of the clean fill, including 308 cubic yards of the no-cover fill, to construct an approximately 175-foot-long levee next to the existing, exterior levee, as generally shown on the cross section on Exhibit 2;
 - (b) Retain approximately 1,111 cubic yards of the clean fill to fill in the former tire pit and raise it to ground level, as generally shown on Exhibit 1;
 - (c) Any work authorized by the Commission must be commenced by no later than April 30, 2001 and completed by September 30, 2001; and
- 4. **Fill Removal.** Within 180 days of the issuance of this order, the FGC, M&H and Baker Trucking shall remove and legally dispose of, to a location approved by or on behalf of the Commission, all of the unauthorized fill placed by the parties at the FGC, for which the FGC has not obtained the Commission's approval to retain, shall supply written verification of having done so, and shall return the affected area to its previous condition, as required in Section II-B-2.

C. **Civil Penalty.** Within 135 days of the issuance of this order, the FGC, M&H and Baker Trucking shall pay a total \$5,000 civil penalty in the form of a cashier's check made out to the San Francisco Bay Conservation and Development Commission.

III. Findings

This order is issued based on the following findings:

A. This order concerns the unauthorized importation of approximately 280 truckloads of fill forming a stockpile of between 2,500 and 3,500 cubic yards of material at the FGC. The stockpile covers a 36,000-square-foot area. 4,350 square feet of the fill is located on now-destroyed seasonal wetlands.

**Commission Settlement and Stipulated Cease
and Desist and Civil Penalty Order No. CCD 4-00**

The Family Gun Club, McGuire and Hester, and Baker Trucking
February 20, 2001
Page 5

Stipulated Oder Exhibit A

B. The Family Gun Club (FGC) is located within the primary management area of the Suisun Marsh adjacent to Goodyear Slough and north of Pierce Lane. The FGC comprises about 200 acres consisting of about 155 acres of managed wetlands, about 12 acres of tidal wetlands (on the exterior side of the berm encircling the Club), about 30 acres of upland, and about 3 acres of "headquarters." The headquarters area includes a clubhouse, guest cottage, parking lot, equipment storage, and a low-lying area, referred to as the "tire pit." Historically, the tire pit was a man-made pond that was once used as a dumpsite for tires that have since been removed. The unauthorized, imported fill material was placed in the tire pit and at the northern end of the headquarters area adjacent to an exterior levee along Goodyear Slough. The Individual Management Plan for the FGC identifies the FGC as Duck Club No. 423. The Assessor Parcel Numbers are 0046-110-080 and 90-230-110 (formerly 78-100-11).

C. In 1977 the legislature enacted the Suisun Marsh Preservation Act (the Act).

D. California Government Code Section 29102 of the Act and the Suisun Marsh Protection Plan maps define an area called the primary management area of the Suisun Marsh. The FGC is located within the primary management area as shown on the map entitled "Boundaries of the Suisun Marsh," dated January 20, 1978.

E. Pursuant to Section 29401 of the Act, on August 29, 1980, the Commission certified an individual, water management plan for Duck Club No. 423 (the FGC), which describes the club site conditions and how to manage the pond for duck fodder. The management plan "authorizes" common duck club maintenance and habitat enhancement activities, such as discing, grading, mowing, and burning pond bottoms and pond flooding, without any further need to obtain a Commission permit as long as the improvements are included in the approved management plan and carried out in the manner by it and by the SRCD component of the Suisun Marsh Local Protection Program (LPP). The management plan also states that any levee work, ditch work, or structure placement or repair must be covered by an application to the SRCD for such work under the SRCD Blanket Permit issued by the U.S. Army Corps of Engineers and BCDC.

F. Pursuant to Section 29401 of the Act, on August 29, 1980, the Commission adopted Resolution 80-6, which certified the SRCD's component of LPP. The SRCD defines the manner in which common duck club maintenance and habitat enhancement activities, such as discing, grading, mowing, and burning pond bottoms and pond flooding should occur. Exhibit "G" of the SRCD LPP defines its "Standards Covering Diking, Flooding, Draining, Fill and Dredging of Tidal Waters, Managed Wetlands and Tidal Marsh within the Primary Management Area of the Suisun Marsh." Section VI of Exhibit G states that no permit shall be required from the Commission for new levee construction, renovation, restoration, repair and maintenance of existing levees if the work conforms to the specifications shown, which include borrowing the material from the adjacent ditch. Section VI of Exhibit G also states that proposals for other new levee construction shall be approved by a separate marsh development permit as provided for in Section 29500 et seq. of the California Public Resources Code (page G-6).

G. Section 29500 of the Act requires any person who wants to perform or to undertake any development in the primary management area to obtain a marsh development permit from the Commission prior to commencing development.

H. Section 29501.5 states that within the primary management area, no marsh development permit shall be required for any development specified in the component of the Suisun Marsh Local Protection Program (LPP) prepared by the Suisun Resource Conservation District (SRCD) and certified by the Commission. In other words, work that is called for in the individual water

**Commission Settlement and Stipulated Cease
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The Family Gun Club, McGuire and Hester, and Baker Trucking
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Stipulated Oder Exhibit A

management plan and is carried out in accordance with the standards of the certified SRCD LPP does not require a permit from the Commission. Work that is either not called for in the individual management plan or not carried out in the accord with the standards of the SRCD LPP requires a permit from the Commission.

I. On April 11, 1996, the FGC purchased Duck Club #423. The FGC is jointly owned by Milton von Damm, Robert Bricca, Leo Reishen, Gordon Richards, Charles Rund and Dan Stemmler.

J. The staff alleges that the FGC, M&H, and Baker Trucking are collectively responsible for importing to and placing approximately 3,500 cubic yards of fill at the FGC between November 12, 1998 and March 3, 1999.

K. Between March 5, 1999, when the staff learned about the fill placement from the staff at Solano County and May 12, 1999, when the staff and the FGC, M&H, and Baker Trucking identified and agreed upon tentative terms of settlement, the FGC, M&H and Baker Trucking have been cooperative with and responsive to the Commission staff's investigation into the matter.

L. During a visit to the FGC on March 23, and during a review her field notes and four aerial photographs on December 19, 1999, Debra O'Leary, staff biologist with the U. S. Army Corps of Engineers, determined that the fill was placed over a 36,000-square-foot area. She also determined that approximately 4,500 square feet consisted of seasonal wetlands before the material was placed. She determined that it would be possible to restore the impacted seasonal wetlands.

M. Pursuant to a request by the Commission staff, the FGC, M&H and Baker Trucking paid to have the imported fill tested to determine its chemical content. Several sets of soil tests showed elevated levels of copper and mercury in some of the fill material. Stephen Berger of the Regional Water Quality Control Board concluded that the soil located in Areas A-5 and B-4 is too contaminated to remain onsite. He concluded that the fill located in Areas A-3, B-5 and the soil stockpile area adjacent to B must be covered with one and a half feet of clean cover material if it is retained onsite. He concluded that the fill located in Areas A-1, A-2, A-4, B-1, B-2, B-3, and all of C is clean enough to remain on site. (Exhibit 3).

N. On May 12, 2000, Mr. von Damm representing the FGC, Mr. Cramer representing M&H, Mr. Goins representing Baker Trucking, and several others met with Ms. Klein, Jonathan Smith, Commission staff counsel, and Steven McAdam, Chief of Regulatory Services and Deputy Director, to discuss possible terms of settlement. After some discussion, the parties agreed upon a settlement to restore the filled seasonal wetlands, to obtain a Commission permit to use some of the clean, onsite fill and/or to remove any fill not authorized for any uses, and to conduct an onsite habitat improvement project of the managed wetlands in lieu of paying a civil penalty.

O. On May 12, 2000, the parties submitted a summary of the settlement proposal. Since that time, the parties have continued to negotiate and the result of these negotiations is the currently proposed order to which all the parties have stipulated.

P. No marsh development permit from the Commission will be necessary to remove the contaminated fill from the site because this work will restore the site to its pre-existing condition.

Q. No marsh development permit from the Commission will be necessary to remove the fill from and restore the seasonal wetlands because this work will restore the site to its pre-existing condition.

**Commission Settlement and Stipulated Cease
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The Family Gun Club, McGuire and Hester, and Baker Trucking
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Stipulated Oder Exhibit A

R. A marsh development permit will be necessary to retain 1,111 cubic yards of fill in the former tire pit and to retain 1,048 cubic yards of fill to construct a new levee.

S. On December 22, 2000, Ms. Klein sent the parties a draft cease and desist and civil penalty order for their review.

T. Since the parties placed the fill material at the FGC without the necessary authorization of the Commission, they have diligently and candidly responded to all of the staff's correspondence, they have educated themselves about the Suisun Marsh Preservation Act, they have become involved with the SRCD, and they have worked with one another to formulate and fund a viable resolution to this matter. Under the circumstances, the Commission finds that this order is a reasonable resolution of this matter and will prevent any further delay and waste of public funds in pursuit of this matter.

IV. Disclaimer of Effect of Order on Private Rights of Public Regulation

This order shall have no effect on any duties, rights, or obligations established by private agreement or by the laws and regulations of other governmental bodies.

V. Waiver of Right to Appeal

By stipulating to the issuance of this order, the City waives any right to contest the issuance of this order in any manner whatsoever.

VI. Possible Court Action for Noncompliance

Failure to comply with the terms of this order or to pay all applicable administrative civil penalties may result in the Commission filing a lawsuit against the parties who fail to comply with this order. Any person who intentionally or negligently violates a Commission cease and desist order may be liable civilly for up to \$6,000.00 for each day in which such violation persists.

Executed at San Francisco, California, on behalf of the San Francisco Bay Conservation and Development Commission on the date first above written.

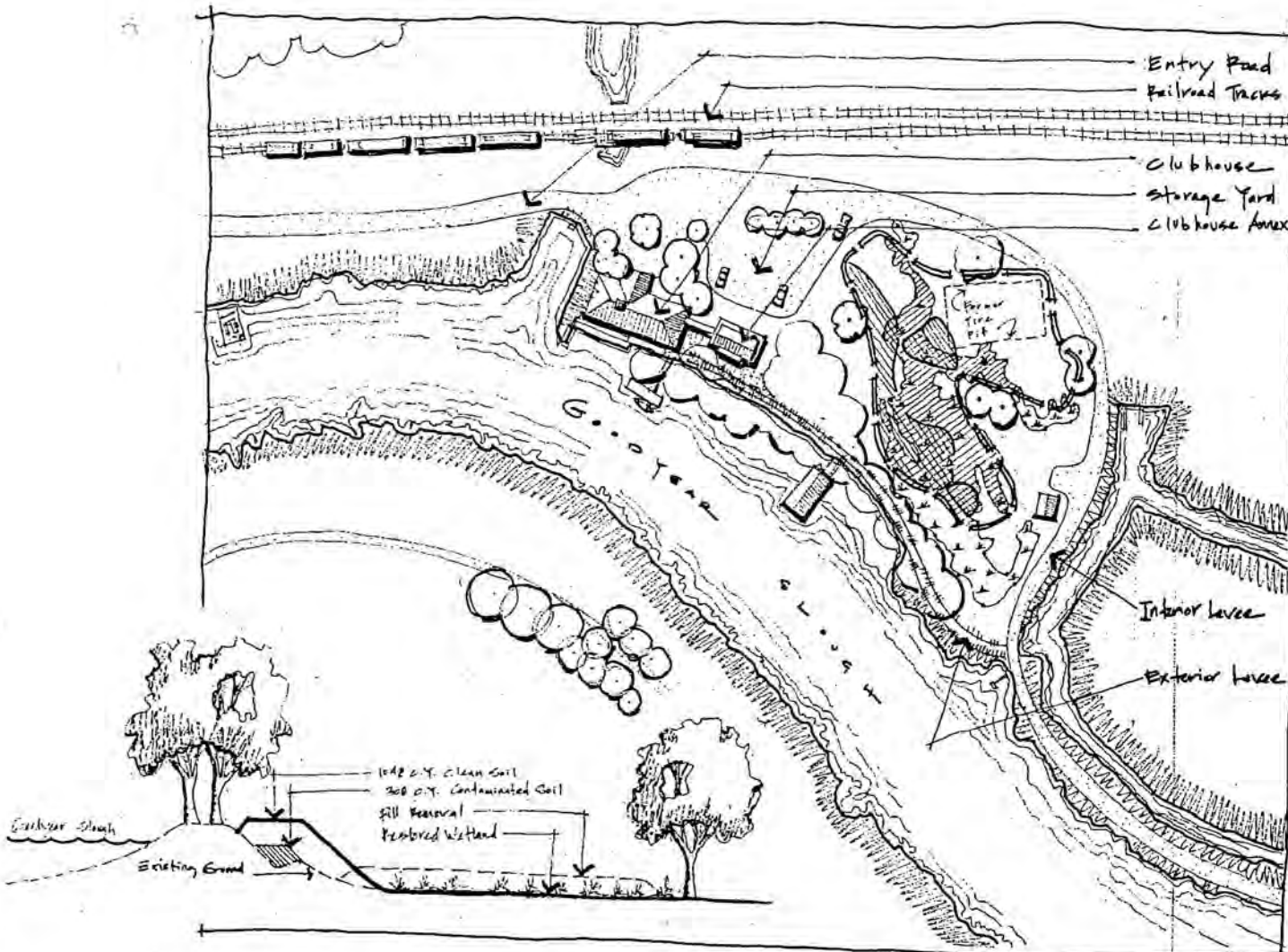
WILL TRAVIS
Executive Director
San Francisco Bay Conservation and
Development Commission

By:


STEVEN A. McADAM
Deputy Director

SAM/AK/gg

cc: Suisun Resource Conservation District, Attn.: Steve Chappell
California State Department of Fish and Game, Attn.: Dennis Becker
San Francisco Bay Regional Water Quality Control Board, Attn.: Stephen Berger
U. S. Army Corps of Engineers, Attn.: Debra O'Leary

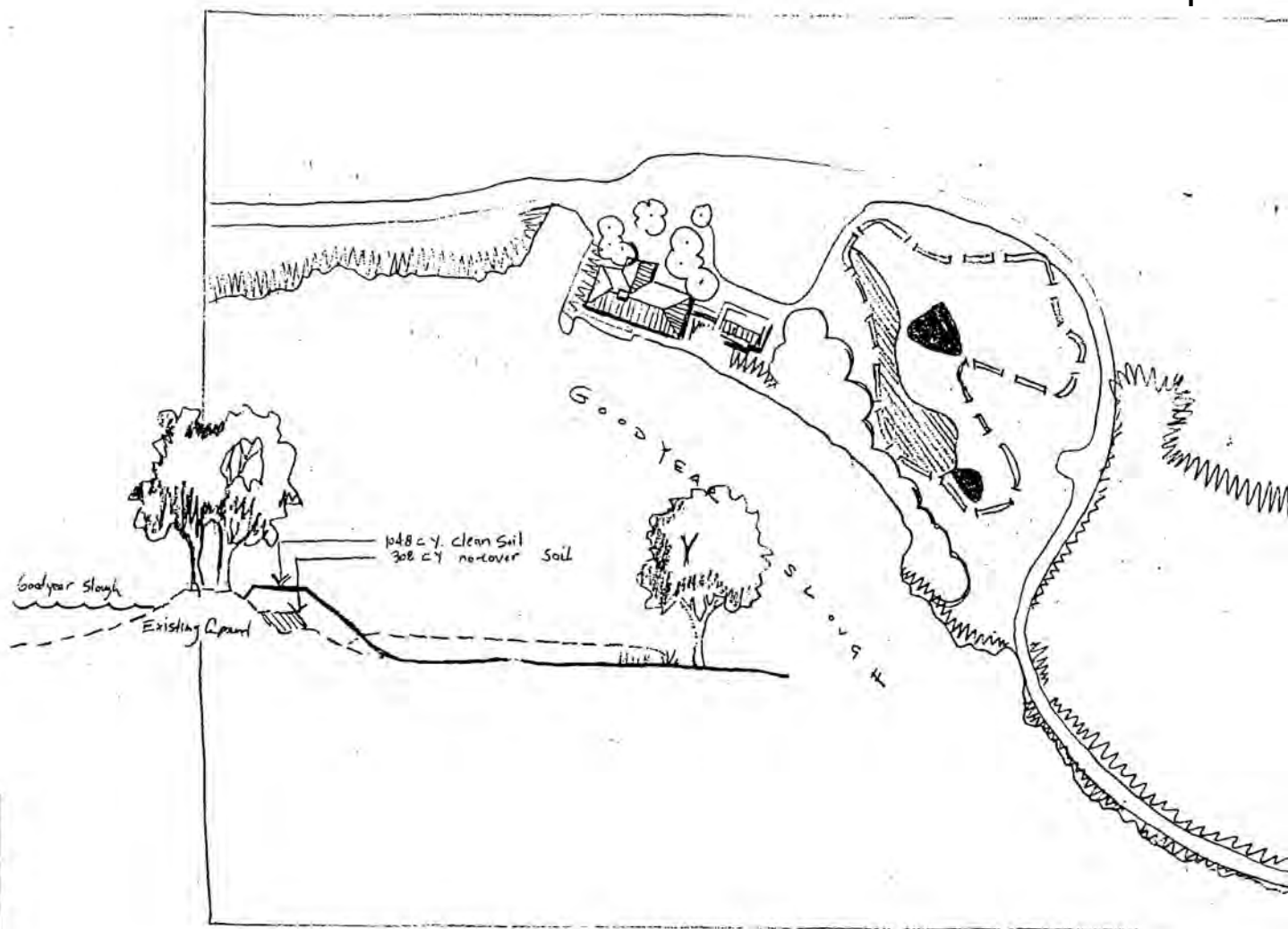


- LEGEND**
- LIMIT OF PLACED FILL
 - CONTAMINATED FILL
 - EXTENT OF SEASONAL WETLAND (JULY 1997)
 - DAMAGED SEASONAL WETLAND





CCD 4-00
Exhibit 1

STATE OF CALIF. Order No. CCD 4-00
THE FAMILY GUN CLUB
 Goodyear Slough, Solano County
 Stipulated Order Exhibit A

NORTH
 DECEMBER 2000 BDC



LEGEND

-  LIMIT OF PLACED FILL
-  308 CY OF NO-COVER FILL TO BE USED FOR LEVEE CONSTRUCTION
-  111 CY CONTAMINATED FILL - TO BE REMOVED OFFSITE
-  2,083 CY CLEAN FILL TO BE USED FOR LEVEE CONSTRUCTION AND/OR REMOVED OFFSITE

CCD 4-00
Exhibit 2

Cease and Desist Order No. CCD 4-00
THE FAMILY GUN CLUB
Good Year Slough Solano County

⬆ NORTH
DECEMBER 2000 BDC



Winston H. Hickox
Secretary for
Environmental
Protection

California Regional Water Quality Control Board

San Francisco Bay Region

Internet Address: <http://www.swrcb.ca.gov>
1515 Clay Street, Suite 1400, Oakland, California 94612
Phone (510) 622-2300 • FAX (510) 622-2460

EXHIBIT

Gray Davis
Governor

June 29, 2000

File No. 2128.03(SLB)
FAMILY GUN 3.DOC

Mr. Milton von Damm
1681 Visalia Avenue
Berkeley, CA 94707

Stipulated Order Exhibit A

SUBJECT: FAMILY GUN CLUB, SUISUN MARSH, SOLANO COUNTY
EVALUATION OF ADDITIONAL SOIL ANALYSIS RESULTS

Dear Mr. von Damm:

You have submitted analytical results from additional samples collected from the imported soil at the Family Gun Club, located in the Suisun Marsh, Solano County. Fifteen soil samples were collected from the imported soil on the Family Gun Club, along with five background samples. These 20 soil samples were individually analyzed for both mercury and copper, the two metals of concern based on previous soil sample analytical results. The analytical results would determine the proper use for the soil considering any impacts to water quality and beneficial uses. The individual analyses can better determine this proper use, as compared to the previous composite analyses.

Based on the analytical results from the additional soil samples, the Regional Board has determined the following uses for the imported soil using the enclosed Plate 1 as a guide to separate the soil areas. The uses for the imported soil take into account the Regional Board criteria for each use and also the analytical results for the background metals.

Areas A-1, A-2, A-4, B-1, B-2, B-3, and all of C	Unrestricted use
Areas A-3, B-5, and the Soil Stockpile area adjacent to B	Interior levee use only or removal from the site to a proper disposal site
Areas A-5 and B-4	Removal from the site to a proper disposal site

Soil that can be used as the interior of a levee must be surrounded on all sides by at least one and one-half feet of clean fill. The Regional Board has determined that this should protect the water quality and beneficial uses of the adjacent water.

In order to ensure complete removal of imported soil from Areas A-3, A-5, B-4, B-5 and the Soil Stockpile, the original grade before the imported soil was deposited must be restored to these Areas.

California Environmental Protection Agency

CCD 4-00

Exhibit 3

Mr. von Damm

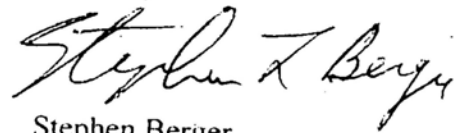
June 29, 2000

Page 2

Stipulated Oder Exhibit A

If you have any questions, please contact me at (510) 622-2345 or email at slb@rb2.swrcb.ca.gov.

Sincerely,



Stephen Berger
Associate Engineer

Enclosure

cc: Debra O'Leary, U.S. Army Corps of Engineers, Regulatory Branch

Adrienne Klein

San Francisco Bay Conservation and Development Commission

50 California Street, Suite 2600

San Francisco, CA 94111

CCD 4-00

Exhibit 3

Apr 25 00 01:55p

Apr 25 00 12:36p

Milton von Damm

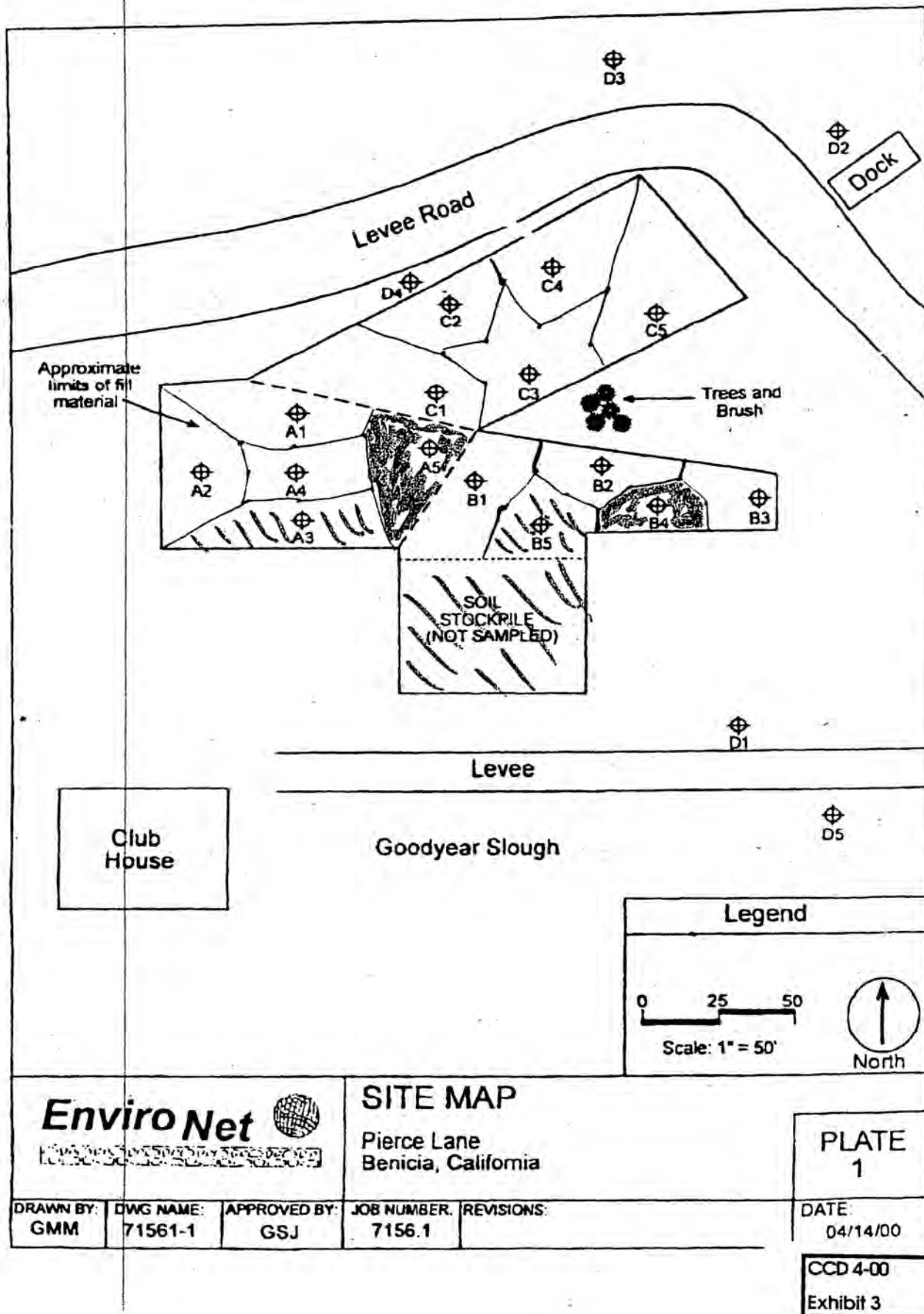
Environet Consulting

510) 527-4992

(707) 544-5769

P.5

P.5



SAN FRANCISCO BAY CONSERVATION AND DEVELOPMENT COMMISSION

50 CALIFORNIA STREET, SUITE 2600
SAN FRANCISCO, CALIFORNIA 94111
PHONE: (415) 352-3600
<http://www.bcdc.ca.gov>

BCDC Original

RECEIVED
APR 19 2001

SAN FRANCISCO BAY CONSERVATION
& DEVELOPMENT COMMISSION

PERMIT NO. M99-22(M)

April 11, 2001

Stipulated Order Exhibit A

The Family Gun Club, LLC
1681 Visalia Avenue
Berkeley, California 94707

ATTENTION: Mr. Milton von Damm

Dear Mr. von Damm:

I. Authorization

- A. Subject to the conditions stated below, the permittee, The Family Gun Club, LLC, is hereby authorized to do the following:

Location: At the Family Gun Club (Duck Club #423), within the primary management area in an unincorporated area of the Suisun Marsh, adjacent to Goodyear Slough and Pierce Lane, Solano County.

Description: (1) Retain approximately 1,048 cubic yards of clean fill and 308 cubic yards of non-cover fill, to construct an approximately 175-foot-long levee parallel and adjacent to the existing exterior levee; (2) retain approximately 1,111 cubic yards of clean fill to fill in a former tire pit and raise it to ground level; and (3) restore seasonal wetlands (approximately 0.10 acre) disturbed during levee construction.

B. This authority is generally pursuant to and limited by your application dated December 11, 2000, including all accompanying exhibits and subsequent correspondence thereto, but subject to the modifications required by the conditions contained herein.

C. Work authorized herein must commence prior to August 1, 2001, or this permit will lapse and become null and void. Such work must also be diligently pursued to completion and must be completed within three months of commencement, or by October 15, 2001, whichever is earlier, unless an extension of time is granted by amendment of the permit.

II. Special Conditions

The authorization made herein shall be subject to the following special conditions, in addition to the standard conditions in Part IV:

Stipulated Order Exhibit A

A. **Construction.** The improvements authorized herein shall be built generally in conformance with the plans entitled "The Family Gun Club, Side View of New Levee Project", prepared by the Family Gun Club, not dated, and received by BCDC staff on December 12, 2000 (Exhibit 1). Before proceeding with any improvements that are inconsistent with this plan, the permittee shall consult with BCDC staff and obtain final written approval of any such changes from the plan. No noticeable changes to the overall design of the project shall be made without the prior written approval of BCDC staff.

B. **Seasonal Wetlands Restoration.** Prior to commencing any fill removal, grading, or any other work that may be undertaken to restore seasonal wetlands, the permittee shall submit a program and plans, to be approved by or on behalf of the Commission, for the restoration of the seasonal wetlands disturbed during levee construction and unauthorized fill placement. The program and plans shall generally depict the work shown on the conceptual plans attached hereto as Exhibit 2, shall depict all fill removal, grading, soil preparation, and any planting, and shall contain the following:

- (1) **Site Conditions and Modifications.** Two topographic maps of the site at one-foot contour intervals showing the existing elevations and the proposed modifications and proposed final elevations. All elevations shall be relative to National Geodetic Vertical Datum (NGVD). The maps shall include typical cross-sections showing the proposed elevation of the wetlands to be restored, adjacent wetlands, any channels, and any high spots. The maps shall show figures for the ratios of typical horizontal to vertical slopes for existing and proposed marsh surface, levees, and channels. The maps shall show proposed plant species along the cross-sections according to their expected zone of growth;
- (2) **Schedule.** The program shall include a schedule indicating when fill removal and grading will occur, the time plant colonization is expected to occur, and the time when any planting will occur, if necessary; and
- (3) **Monitoring.** Starting on November 15 of the first, third, and fifth years following project completion, or until those portions of the restoration site are approximately 80% vegetated with appropriate native vegetation, whichever occurs first, the permittee shall submit a written report to the Commission on the effects of the project in restoring wetland habitat to the restoration site. To assure that the goal of 80% plant coverage is met by the end of the five year monitoring period, the report shall measure the percentage of the site revegetated, plant survival, approximate percentage representation of different plant species, and a qualitative assessment of plant growth rates for the restoration area, including adjacent transitional and upland habitats. The permittee shall assess plant coverage against the above required benchmarks. If the restored wetlands fail to meet the project goals, the monitoring report shall discuss recommendations for accelerating the restoration of the seasonal wetlands. Such recommendations may include altering water management, planting, and adding soil amendments.

C. **Limit of Work.** The work authorized herein is confined to restoring 0.10 acre of seasonal wetland and retaining a total of 2,467 cubic yards of fill, of which 1,356 cubic yards will be used to construct a levee and 1,111 will be used to fill in a former tire pit and raise it to ground level. Any further construction or installation on, or additional uses of, the site may require additional authorization, by means either of an amendment to this permit, or of a new permit. No additional work is authorized by this permit.

Stipulated Order Exhibit A

D. Debris Removal. All construction debris shall be removed to a location outside the jurisdiction of the Commission. In the event that any such material is placed in any area within the Commission's jurisdiction, the permittee, its assigns, or successors in interest, or the owner of the improvements, shall remove such material, at its expense, within ten days after it has been notified by the Executive Director of such placement.

E. Marsh Protection. The work authorized by this permit shall be performed in a manner that will prevent any significant adverse impact on any tidal marsh or other sensitive wetland resources. If any unforeseen adverse impacts occur to any such areas as a result of the activities authorized herein, the permittee shall restore the area to its previous condition, including returning the disturbed area to its original elevation and soil composition and, if the area does not revegetate to its former condition within one year, the permittee shall seed all disturbed areas with appropriate marsh vegetation.

III. Findings and Declarations

On behalf of the Commission, I find and declare that:

A. The project authorized by this permit stems from an enforcement action resulting from the allegation that the Family Gun Club and Baker Trucking imported between 2,500 and 3,500 cubic yards of fill material (between November 12, 1998 and March 3, 1999) to the clubhouse area of the Family Gun Club, damaging seasonal wetlands. As part of the Cease and Desist Order (CCD 4-00), the Family Gun Club was ordered to obtain Commission approval to: (1) retain the clean fill on site (a total of 2,467 cubic yards); (2) use the clean fill to construct an onsite levee (1,365 cubic yards) and fill in a former tire pit (1,111 cubic yards); and (3) restore seasonal wetlands damaged by levee construction (0.10 acre).

A private duck hunting club currently exists on the project site. Levee construction is necessary to reinforce the existing levee and prevent a levee breach that would potentially destroy existing productive wildlife habitat. Therefore, the levee construction and retaining of fill is similar in activity and impact on the Bay (as defined in Regulation Section 10601(e)(3)); to the placement of small amounts of inert inorganic fill that does not have significant adverse effect on present and future maximum feasible public access to the Bay pursuant to Regulation Section 10601(b)(1); and the installation of new protective works and repairs to existing protective works in the minimum amount necessary to stabilize existing dikes and banks or to provide improved fish and wildlife habitat pursuant to Regulation Section 10601(b)(4). Therefore, the project activities authorized herein are considered a "minor repair or improvement" for which the Executive Director may issue a permit, pursuant to Government Code Section 66632(f) and Regulation Section 10622(a).

B. The project activities authorized by this permit are consistent with the Suisun Resource Conservation District's Wetland Habitat Management Plan for Duck Club #423 and with Solano County Policies and Regulations Governing the Suisun Marsh, particularly the policies on marsh and wetland habitat land use (page 10). Policies Number 2 and 6 state, in part, that managed wetlands should be protected and preserved to protect aquatic and wildlife habitat. Construction of the levee will protect the adjacent wildlife areas from unregulated tidal water inundation. Filling in the former tire pit and restoring seasonal wetlands to the site will create important wildlife habitat. In addition, the project activities authorized by this permit would be consistent with Solano County's policies and regulations on wildlife habitat management and preservation (page 15). Policies 1 and 2 state that upland habitats shall be preserved and enhanced and that important

Stipulated Oder Exhibit A

wildlife habitats deserve special protection. Implementation of the project would result in the protection of wildlife habitat from uncontrolled water flows and would create important wildlife habitat on the site.

C. The project authorized by this permit is within the primary management area of the Suisun Marsh Preservation Act of 1977, as defined in Section 29102 of Chapter 2, Division 19 of the Public Resources Code. This project is consistent with the findings and declarations of Public Resources Code Sections 29002 and 29004, and the Suisun Marsh Protection Plan with particular reference to findings and policies on the Land Use and Marsh Management, pages 27 through 29 of the Plan.

D. The Commission further finds, declares, and certifies that the activities authorized herein are consistent with the Commission's Amended Management Program for San Francisco Bay, as approved by the Department of Commerce under the Federal Coastal Zone Management Act of 1972, as amended.

E. The project authorized by this permit is categorically exempt from the requirements of the California Environmental Quality Act, pursuant to Section 15303.

F. Pursuant to Regulation Section 10620, this project was listed with the Commission on March 1, 2001.

IV. Standard Conditions

A. All required permissions from governmental bodies must be obtained before the commencement of work; these bodies include, but are not limited to, the U. S. Army Corps of Engineers, the State Lands Commission, the Regional Water Quality Control Board, and the city and/or county in which the work is to be performed, whenever any of these may be required. This permit does not relieve the permittee of any obligations imposed by State or Federal law, either statutory or otherwise.

B. The attached Notice of Completion and Declaration of Compliance form shall be returned to the Commission within 30 days following completion of the work.

C. Work must be performed in the precise manner and at the precise locations indicated in your application, as such may have been modified by the terms of the permit and any plans approved in writing by or on behalf of the Commission.

D. Work must be performed in a manner so as to minimize muddying of waters, and if diking is involved, dikes shall be waterproof. If any seepage returns to the Bay, the permittee will be subject to the regulations of the Regional Water Quality Control Board in that region.

E. The rights, duties, and obligations contained in this permit are assignable. When the permittee transfers any interest in any property either on which the authorized activity will occur or which is necessary to the full compliance of one or more conditions to this permit, the permittee/transferor and the transferee shall execute and submit to the Commission a permit assignment form acceptable to the Executive Director. An assignment shall not be effective until the assignee executes and the Executive Director receives an acknowledgment that the assignee has read and understands the permit and agrees to be bound by the terms and conditions of the permit, and the assignee is accepted by the Executive Director as being reasonably capable of complying with the terms and conditions of the permit .

Stipulated Order Exhibit A

F. Unless otherwise provided in this permit, all the terms and conditions of this permit shall remain effective for so long as the permit remains in effect or for so long as any use or construction authorized by this permit exists, whichever is longer.

G. Unless otherwise provided in this permit, the terms and conditions of this permit shall bind all future owners and future possessors of any legal interest in the land and shall run with the land.

H. Unless otherwise provided in this permit, any work authorized herein shall be completed within the time limits specified in this permit, or, if no time limits are specified in the permit, within three years. If the work is not completed by the date specified in the permit, or, if no date is specified, within three years from the date of the permit, the permit shall become null and void. If a permit becomes null and void for a failure to comply with these time limitations, any fill placed in reliance on this permit shall be removed by the permittee or its assignee upon receiving written notification by or on behalf of the Commission to remove the fill.

I. Except as otherwise noted, violation of any of the terms of this permit shall be grounds for revocation. The Commission may revoke any permit for such violation after a public hearing held on reasonable notice to the permittee or its assignee if the permit has been effectively assigned. If the permit is revoked, the Commission may determine, if it deems appropriate, that all or part of any fill or structure placed pursuant to this permit shall be removed by the permittee or its assignee if the permit has been assigned.

J. This permit shall not take effect unless the permittee executes the original of this permit and returns it to the Commission within ten days after the date of the issuance of the permit. No work shall be done until the acknowledgment is duly executed and returned to the Commission.

K. Any area subject to the jurisdiction of the San Francisco Bay Conservation and Development Commission under either the McAteer-Petris Act or the Suisun Marsh Preservation Act at the time the permit is granted or thereafter shall remain subject to that jurisdiction notwithstanding the placement of any fill or the implementation of any substantial change in use authorized by this permit.


L. Any area not subject to the jurisdiction of the San Francisco Bay Conservation and Development Commission that becomes, as a result of any work or project authorized in this permit, subject to tidal action shall become subject to the Commission's "bay" jurisdiction.

M. Unless the Commission directs otherwise, this permit shall become null and void if any term, standard condition, or special condition of this permit shall be found illegal or unenforceable through the application of statute, administrative ruling, or court determination. If this permit becomes null and void, any fill or structures placed in reliance on this permit shall be subject to removal by the permittee or its assignee if the permit has been assigned to the extent that the Commission determines that such removal is appropriate. Any uses authorized shall be terminated to the extent that the Commission determines that such uses should be terminated.

PERMIT NO. M99-22(M)
Family Gun Club, LLC
April 11, 2001
Page 6

Stipulated Order Exhibit A

Executed at San Francisco, California, on behalf of the San Francisco Bay Conservation and Development Commission on the date first above written.



WILL TRAVIS
Executive Director
San Francisco Bay Conservation and
Development Commission

WT/MBL/ra

cc: U. S. Army Corps of Engineers, Attn.: Regulatory Functions Branch
San Francisco Bay Regional Water Quality Control Board,
Attn.: Certification Section
Environmental Protection Agency, Attn: Mike Monroe, W-3-3
Solano County Environmental Management Agency, Attn: Matt Walsh

* * * * *

Receipt acknowledged, contents understood and agreed to:

Executed at 1651 Visalia Ave, Berkeley, CA 94707 Matt Walsh : Family Gun Club
Applicant

On April 17, 2001 By: _____
Treasurer
Title

THE FAMILY GUN CLUB
SIDE VIEW OF NEW LEVEE PROJECT

2115
Stipulated Oder Exhibit A

FILL PLACEMENT DETAIL

Levee length: 250 feet.

2:1 slope, 12' wide at crown.

1048 cubic yards of imported soil needed.

308 cubic yards is to be buried with 740
cubic yards of approved clean fill.

The inside slope of the old levee will relieve the
need for 500 cubic yards of soil.

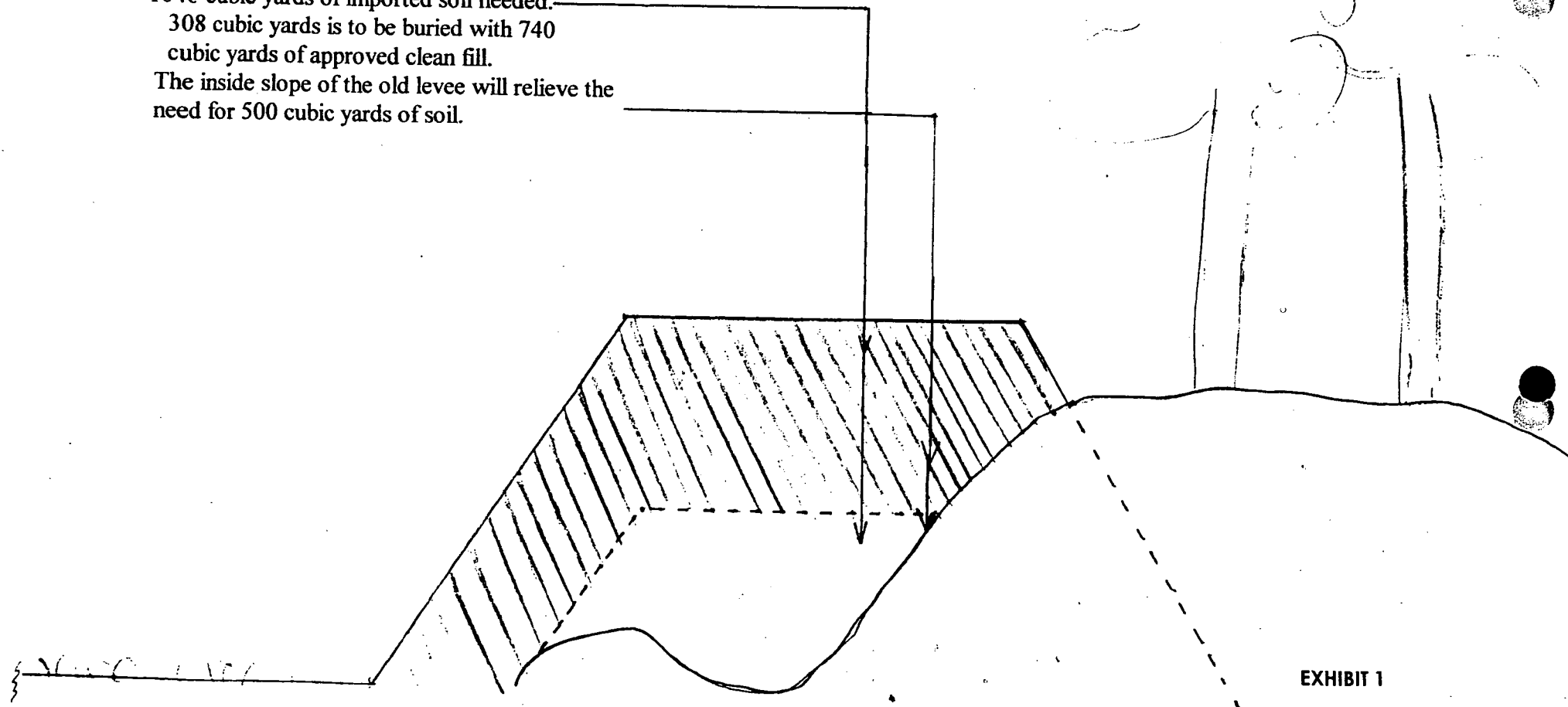


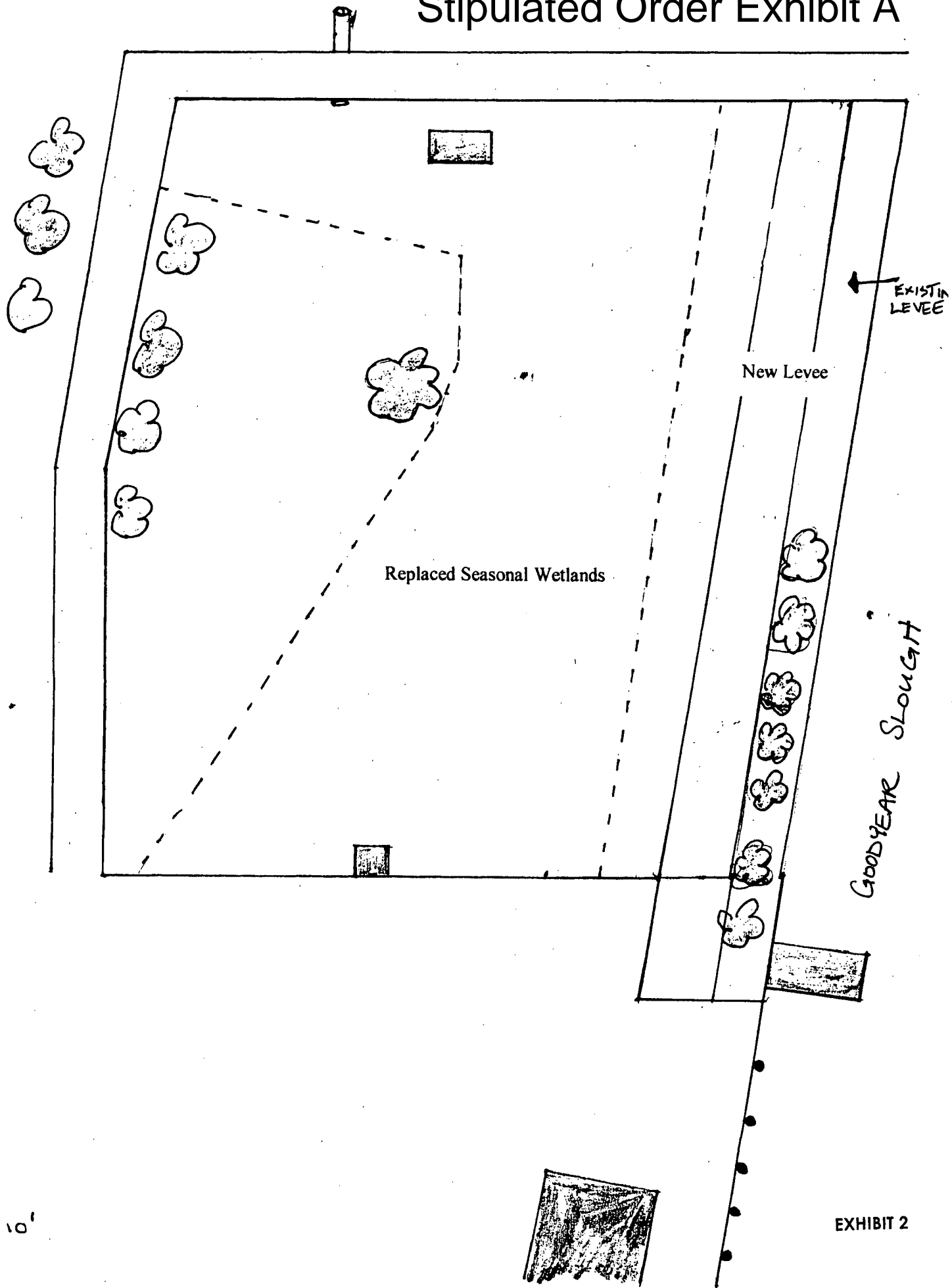
EXHIBIT 1

Family Gun Club, LLC

M99-22(M)

$\frac{1}{4}'' = 1'$

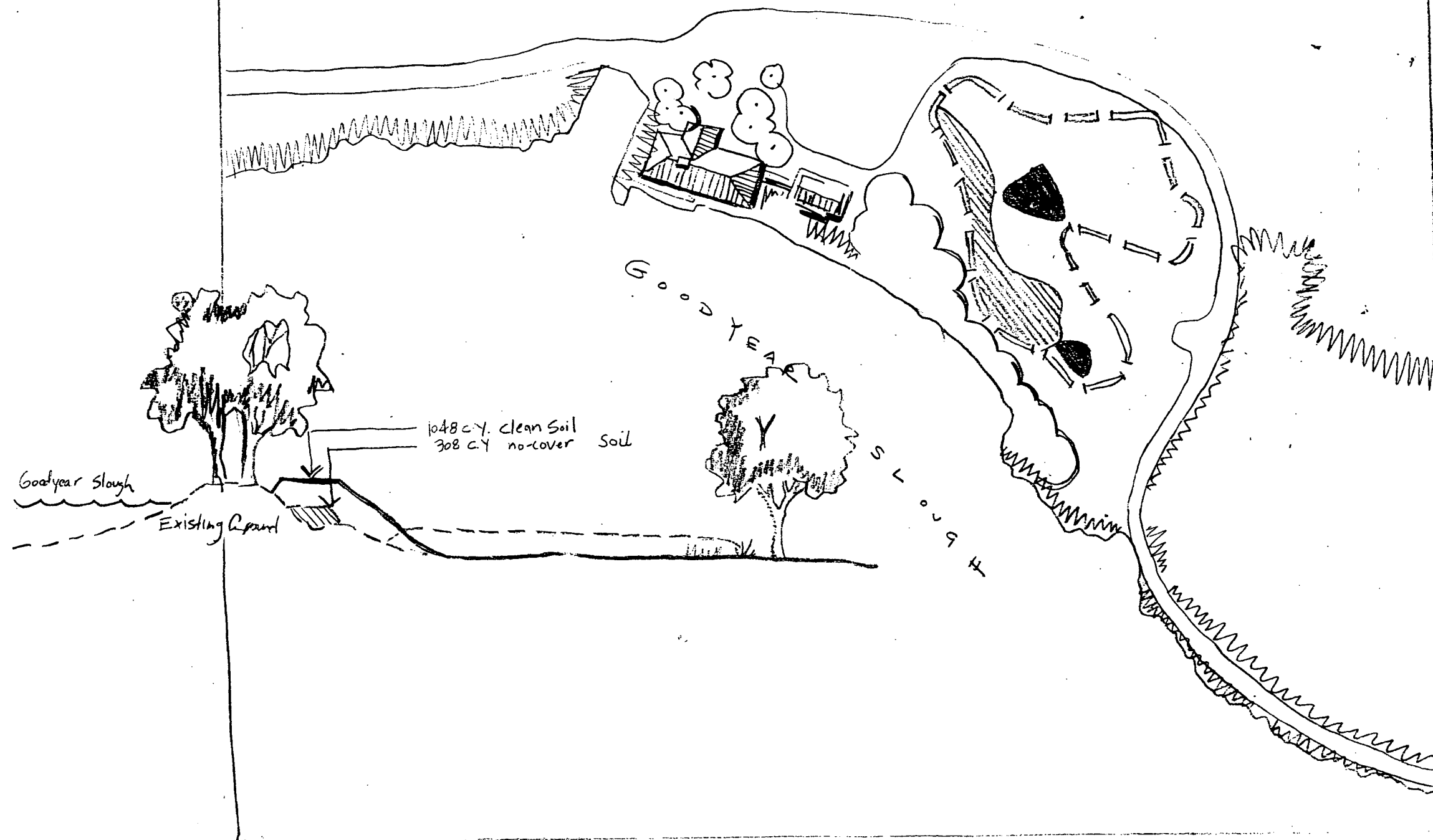
Stipulated Order Exhibit A



$\frac{1}{4}'' = 10'$

EXHIBIT 2

Stipulated Order Exhibit A



Cease and Desist Order No. CCD 4-00
THE FAMILY GUN CLUB

Goodyear Slough Solano County

North

EXHIBIT 2

DECEMBER 2000 BDOC

Family Gun Club

October 10, 2020

Stipulated Order Exhibit B

Google Earth

300 ft

N

